IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CIVIL WRIT PETITION NO.3241 OF 1993
WITH
CIVIL APPLICATION NO.1076 OF 2005

Vijay Bhimsen Rekhi — Petitioner
Vs.
Charity Commissioner & ors. — Respondents

Mr.R.S.Apte for petitioner.
Mr.P.M.Patil, AGP for Resp.No.1.
Mr.R.L.Patil for Resp.No.2.
Mr.R.S.Desai for Resp.No.3.

CORAM: B.H.MARLAPALLE & D.B.BHOSALE,JJ.

March 21, 2006.

P.C.

. The Respondent No.2 is a Public Trust registered under the Bombay Public Trust Act and the Joint Charity Commissioner (Respondent No.1) had by his order dated 2/8/1993 granted permission to the Respondent No.2 to sell its property/plot in City Survey No.991, 991/1 totally admeasuring 240.8 sq.mtrs. at Panvel, to Respondent No.3 for a total consideration of Rs.1,65,591/-. It was also made clear in the said order that in case Respondent No.3 was not ready to pay the amount of Rs.1,65,591/-, the Trustees were directed to execute the Sale Deed of the subject plot in favour of the petitioner for the same amount on usual terms and conditions. This order has been questioned on various grounds.

. As per the petitioner himself the Respondent No.2 had invited tenders for disposal of the subject plot and four bids were received as under:

1. Arvind Mahadeo Savlekar (Resp.3)	Rs.1,60,000/-
2. Yashvant Mahadeo Savlekar (Resp.4)	Rs.1,45,000/-
3. Prakash Shankar Patil (Resp.5)	Rs. 50,000/-
4. Vijay Bhimsen Rekhi (petitioner)	Rs.591 in excess of the highest offer.

. The Joint Charity Commissioner added this amount of Rs.591/- to the highest amount quoted by the Respondent No.3 and directed the Trust to sign the Sale Deed in favour of the said respondent on his payment of Rs.1,60,591/- by way of total consideration. While granting Rule this Court by the order dated 30/8/1993 had stayed the impugned order and as a result thereof the subject plot remained unsold.

. We have noted that in this petition there is no challenge to the permission granted to the

Respondent No.2 to sell the subject plot and what is under challenge is the consideration amount in asmuchas the petitioner contends that the Respondent No.3 could not have been allotted the said plot when the petitioner was willing to pay an amount of Rs.591/- over and above the highest amount quoted by the said respondent. The Joint Charity Commissioner has, in our opinion, acted reasonably and resorted to a possible method to ensure that the Respondent No.2-Trust got the best price. However, the order passed by the Jt. Charity Commissioner could not be implemented because of the stay granted by this Court and it is well recognised that over the last more than one decade the prices of plots in the urban areas have risen steadily. It would be, therefore, in the interest of the Trust that the fresh bids are invited for disposal of the subject plot admeasuring 240.8 sq.mtrs. out of City Survey Nos. 991, 991/1 of Panvel town and the petitioner as well as the respondents or any other member of the public is allowed to participate in the bid on the basis of the larger publication in some of the leading newspapers published from Mumbai. At the same time if the Respondent No.3 is willing to pay the highest amount quoted in the proposed bid, he should get preference

and the 10 % of the amount deposited by him i.e. Rs.1,65,591/- will bear interest at the savings rates granted by the Nationalised Banks.

. We, therefore, dispose off this petition by directing the Respondent-Trust to invite fresh tenders for disposal of the subject plot within a period of one month from today and the said bid shall be published in at least one Marathi newspaper published from Mumbai in addition to the publication in local newspapers. The petitioner as well as the respondents are at liberty to participate in the said bid. The property/plot will be sold to the highest bidder. However, if the respondent no.1 is willing to pay the highest quoted amount, he shall have preference over other bidders and he shall be entitled for interest on the amount already deposited with the Trust at the savings rates offered by the Nationalised Banks. We also clarify that in case the petitioner or any of the respondents quote the highest price which the respondent no.3 would show his inability to pay or offer, in that case such bidder shall be bound by the amount quoted by him and shall have to honour the said offer and he will not be able to back out. We also make it clear that

while inviting the bids the Trust shall raise the amount of deposit from 10 per cent to 25 per cent.

. Civil Application No.3241 of 1993 stands disposed off.

(D.B.BHOSALE,J.) (B.H.MARLAPALLE,J.)